

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, ex rel. the	)	
State Engineer,	)	
	)	
Plaintiff,	)	69cv07941 BB-ACE
	)	
v.	)	Rio Chama Adjudication
	)	
ROMAN ARAGON, et al.,	)	
	)	
Defendants.	)	
_____	)	

**UNITED STATES' MOTION FOR EXTENSION OF TIME TO SUBMIT  
PROPOSED SCHEDULING ORDER ON PUEBLO CLAIMS**

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The United States of America ("United States") hereby moves the Court to extend until November 1, 2004 the date for submission of a proposed scheduling order to govern the adjudication in this case of San Juan Pueblo's water rights. In support of this motion, the United States asserts:

1. On June 14, 2004, the Court *sua sponte* entered an Order requiring that "[a]fter consultation with the New Mexico Office of the State Engineer, counsel for the United States and San Juan Pueblo shall, by September 1, 2004, file a joint, proposed order identifying the activities required to resolve San Juan Pueblo's claims and a schedule of activities for completing those activities."

2. Due to travel schedule and the press of other business in *United States v. A & R Productions*, No. 01cv00072 BB/WWD, *New Mexico ex rel. State Engineer v. Aamodt*, No. 66cv6639 MV/LCS, and *New Mexico ex rel. State Engineer v. Abbott*, Nos. 68cv07488 BB & 70cv8650 BB (consolidated), in this Court; *New Mexico ex rel. State Engineer v. Kerr-McGee Corp.*, Nos. CB-83-190-CV & CB-83-220-CV

(consolidated) in the Thirteenth Judicial District Court, Cibola County, New Mexico; and *New Mexico ex rel. State Engineer v. United States*, No. CV-75-184-1 in the Eleventh Judicial District Court, San Juan County, New Mexico, the undersigned counsel for the United States was unable to schedule a meeting to discuss this case with representatives of San Juan Pueblo before August 24, 2004.

3. After arranging the August 24, 2004 meeting through San Juan Pueblo's current counsel of record, Mr. David Mielke, counsel for the United States was informed that Pueblo has retained new counsel to represent its interests in this litigation. Accordingly, on August 24, undersigned counsel, and other representatives of the United States, met with the Governor and Lieutenant Governor of San Juan Pueblo and Mr. Lee Bergen of the Nordhaus, Haltom, Taylor, Taradash, & Bladh, LLP law firm. Mr. Bergen has advised that he is working with Mr. Mielke on a substitution of counsel, which will be filed shortly. The proposals concerning scheduling contained in the present motion, including the proposed extension of time for submitting a scheduling order, were discussed with and approved by the San Juan Pueblo representatives. However, due to the schedules of counsel involved, it is not feasible to prepare a joint filing by September 1, 2004.

4. On August 26, 2004, counsel for the United States met with Mr. Gregory C. Ridgley, counsel for the State of New Mexico ex rel. State Engineer ("State"), and discussed the proposed schedule set forth herein, including the proposed extension of time for submitting a scheduling order.

5. Based on consultations with representatives of San Juan Pueblo, the State, and the United States Bureau of Indian Affairs, the United States will propose

that the adjudication of the water rights of San Juan Pueblo within the geographical scope of this civil action be conducted through the creation of two subproceedings:

**Pueblo Claims Subproceeding 1**, to consist of the adjudication of all claims to water rights on behalf of San Juan Pueblo based on evidence of specific past and present uses of water by the Pueblo; and

**Pueblo Claims Subproceeding 2**, to consist of the adjudication of all claims to water rights on behalf of San Juan Pueblo based on asserted legal rights to use water in addition to any quantities used historically, including any such asserted rights under the holding in Winters v. United States, 207 U.S. 564 (1908).

6. Necessary preparations for Subproceeding 1 would include historical and archeological research, update of Pueblo land status and ownership information, and revision of the 1997 Water Use Survey previously submitted to the Court to current technology and standards of accuracy. Based on an assessment of these technical and research tasks the United States asserts that it would be feasible to file a subproceeding complaint for the above-described Pueblo Claims Subproceeding 1 by March 31, 2007, assuming sufficient funding is appropriated to the Bureau of Indian Affairs by Congress.

7. Due consideration for the resource limitations of all parties involved indicates Subproceeding 2 should not be commenced until Subproceeding 1 is completed or substantially completed. However, in the event the Court insists on a target date for initiation of the second subproceeding, and based on an assessment of the technical work necessary to prepare an evidentiary basis for the kinds of claims involved in Subproceeding 2, the United States asserts that it would be feasible to file this

subproceeding complaint by March 31, 2010, assuming sufficient funding is appropriated to the Bureau of Indian Affairs by Congress.

8. Counsel for the United States acknowledges a duty promptly to inform the Court if future funding limitations impair the United States' ability to meet the deadlines suggested herein.

9. Formal subproceedings to adjudicate Pueblo water rights have previously been approved by this Court in *New Mexico ex rel. State Engineer v. Abbott*, Nos. 68cv07488 BB & 70cv8650 BB (consolidated). The Special Master and parties to that case are currently considering revisions to the original scheduling order that created Pueblo claims subproceedings in that matter, based on experience gained under the original order and recent developments that may allow a more expeditious approach to the conduct of the subproceedings. The counsel involved in that case, many of whom are also counsel in the present matter, and the Special Master are currently scheduled to meet for a mandatory working session on the amended Pueblo Claims scheduling order on September 13, 2004, and, pursuant to the Special Master's June 28, 2004 Order [Doc. No. 2438 in the *Abbott* docket], there will be a status conference concerning one of the subproceedings in that case on October 14, 2004. The discussions at the September 13, 2004 working session and the October 14, 2004 status conference in *Abbott* may inform efforts to develop a scheduling and procedural order for the present matter.

Wherefore, the United States respectfully requests that the Court extend, until November 1, 2004, the deadline for submission of a proposed scheduling order for the adjudication of San Juan Pueblo's water rights in this case.

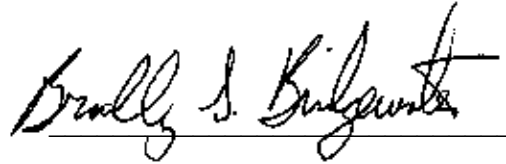
Dated this 27<sup>th</sup> day of August, 2004.

A handwritten signature in black ink, appearing to read "Bradley S. Bridgewater", is written over a horizontal line.

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**CERTIFICATE OF SERVICE**

I hereby certify that on August 27, 2004 copies of the foregoing *United States' Motion For Extension Of Time To Submit Proposed Scheduling Order On Pueblo Claims* were mailed to all persons on the attached distribution list.

A handwritten signature in black ink, reading "Bradley S. Bilgauer", is written over a horizontal line.

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